

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
FOURTH DIVISION

US EPA RECORDS CENTER REGION 5



506931

United State of America, )  
 )  
Plaintiff, )

and )

State of Minnesota, by its )  
Attorney General Warren )  
Spannaus, its Department of )  
Health, and its Pollution )  
Control Agency, )

Plaintiff-Intervenor, )

vs. )

Reilly Tar & Chemical )  
Corporation; Housing and )  
Redevelopment Authority of )  
St. Louis Park; Oak Park )  
Village Associates; Rustic )  
Oaks Condominium, Inc.,; )  
and Phillips Investment Co., )

Defendants, )

and )

City of St. Louis Park, )  
 )  
Plaintiff-Intervenor, )

vs. )

Reilly Tar & Chemical Corp., )  
 )  
Defendant, )

and )

City of Hopkins, )  
 )  
Plaintiff-Intervenor, )

vs. )

Reilly Tar & Chemical Corp., )  
 )  
Defendant. )

No. 4-80 Civil 469

RESPONSE OF THE CITY OF  
ST. LOUIS PARK IN  
OPPOSITION TO THE MOTION  
TO DISMISS OF REILLY TAR  
AND CHEMICAL CORPORATION

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The City of St. Louis Park joins in the responses of  
the United State of America and the State of Minnesota in  
opposition to the Motion to Dismiss by Reilly Tar & Chemical  
Corporation. For the reasons set forth in those responses,

the claims of the City of St. Louis Park, which are based on 42 U.S.C. §6973 and federal common law, state claims upon which relief may be granted in this Court.

The claims based on state law are appropriately before this Court under pendent jurisdiction. United Mine Workers of America v. Gibbs, 383 U.S. 727 (1966). Additionally, jurisdiction over the state claims is proper under 28 U.S.C. §1332, because there is diversity of citizenship between the City and Reilly Tar & Chemical Corporation. Illinois v. City of Milwaukee, 406 U.S. 91 (1972), Reeves v. City of Jackson, 532 F.2d 491, (5th Cir. 1976). The City's cause of action is only against Reilly Tar, and thus, the required complete diversity of citizenship is satisfied.

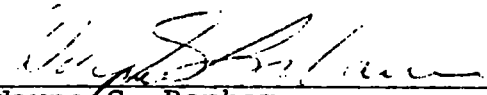
Therefore, the City of St. Louis Park respectfully requests that the Motion to Dismiss by the Reilly Tar & Chemical Corporation be denied.

Dated: September 3, 1981.

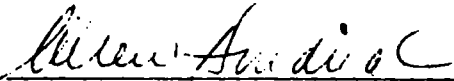
Respectfully submitted,

POPHAM, HAIK, SCHNOBRICH, KAUFMAN  
& DOTY, LTD.

By

  
Wayne G. Popham

And

  
Allen Hinderaker

4344 IDS Center  
Minneapolis, Minnesota 55402  
Telephone: (612) 333-4800

Attorneys for the City of  
St. Louis Park

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response of the City of St. Louis Park in Opposition to the Motion to Dismiss of Reilly Tar and Chemical Corporation was served by mail, postage prepaid, upon the following attorneys of record this 3rd day of September, 1981.

Francis X. Hermann, Esq.  
Assistant U.S. Attorney  
234 U.S. Courthouse  
110 South Fourth Street  
Minneapolis, MN 55401  
Attorney for Plaintiff United States of America

Stephen Shakman, Esq. and William G. Miller, Esq.  
Special Ass't Attorneys General  
1935 West County Road B2  
Roseville, MN 55113  
Attorneys for Plaintiff-Intervenor State of Minnesota

Edward J. Schwartzbauer, Esq., and William J. Keppel, Esq.  
Dorsey, Windhorst, Hannaford, Whitney & Halladay  
2300 First National Bank Building  
Minneapolis, MN 55402  
Attorneys for Defendant Reilly Tar & Chemical Corporation

Thomas E. Reiersgord, Esq.  
Yngve & Reiersgord  
6250 Wayzata Boulevard  
Minneapolis, MN 55416  
Attorneys for Defendant Reilly Tar & Chemical Corporation

Thomas W. Wexler, Esq.  
Peterson, Engberg & Peterson  
700 Title Insurance Building  
Minneapolis, MN 55401  
Attorney for Defendant Phillips Investment Co.

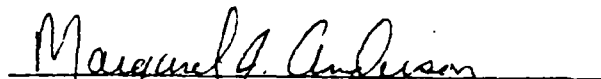
Laurance R. Waldoch, Esq.  
Lindquist & Venum  
4200 IDS Center  
Minneapolis, MN 55402  
Attorney for Defendant Oak Park Village Associates

James T. Swenson, Esq.  
MacKall, Crounse & Moore  
1600 TCF Tower  
Minneapolis, MN 55402  
Attorney for Defendant TCF Service Corporation, Successor In Interest to Rustic Oaks Condominium, Inc.

Joseph C. Vesely, Esq.  
Vesely, Otto, Miller & Keefe, P.A.  
Northwestern Bank Building, Suite 203  
1011 South 1st Street  
Hopkins, MN 55415  
Attorneys for Defendant City of Hopkins

  
Allen Hinderaker

Subscribed and sworn to before me this 3<sup>rd</sup> day of September, 1981.

  
Notary Public

